



13-MC-05000-ORD

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JAN 08 2013	
CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA	
BY	DEPUTY

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

IN RE:
Request from Austria
Pursuant to the Treaty Between the
Government of the United States of
America and the Government of
Austria on Mutual Assistance in Criminal Matters in
the Matter of "Madleine Seiler"

NO. MC 13-5000 BHS

(Under Seal)

ORDER

Upon application of the United States, and upon review of the Request from Austria dated November 8, 2012, seeking evidence under the 1995 U.S.-Austria Mutual Legal Assistance Treaty, as supplemented by the 2005 U.S.-Austria Mutual Legal Assistance Protocol, for use in a criminal investigation, prosecution, or procedure related to the prosecution in Austria, and the Court having fully considered this matter,

IT IS HEREBY ORDERED, pursuant to the authority conferred by the Treaty and 18 U.S.C. § 3512, as well as this Court's inherent authority, that Marci L. Ellsworth (or a substitute or successor designated by the Office of the United States Attorney) is appointed as commissioner (the "commissioner") of this Court and hereby directed to execute the Treaty Request and to take such steps as are necessary to collect the evidence requested. In doing

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ORDER APPOINTING COMMISSIONER

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

1 so, the commissioner:

2 1. may issue commissioner's subpoenas to be served at any place within the
3 United States on persons (natural and legal) ordering them or their representatives to appear
4 and to testify and produce evidence located within the United States;

5 2. shall provide notice with respect to the collection of evidence to those persons
6 identified in the Request as parties to whom notice should be given (and no notice to any
7 other party shall be required);

8 3. shall adopt procedures to collect the evidence requested consistent with its use
9 in the investigation, prosecution or other proceeding in Austria for which Innsbruck Office of
10 Public Prosecution has requested assistance, which procedures may be specified in the
11 Request or provided by or with the approval of the Innsbruck Office of Public Prosecution
12 under the Treaty;

13 4. may, in collecting the evidence requested, be accompanied by persons whose
14 presence or participation is authorized by the commissioner, including, without limitation,
15 special agents of Homeland Security Investigations and/or representatives of Austria who, as
16 authorized or directed by the commissioner, may direct questions to any witness;

17 5. may seek such further orders of this Court as may be necessary to execute this
18 Request, including orders to show cause why persons served with commissioner's subpoenas
19 who fail to produce evidence should not be held in contempt, and including protective
20 orders to regulate the use of the evidence collected;

21 6. shall certify and submit the evidence collected to the Office of International
22 Affairs, Criminal Division, U.S. Department of Justice, or as otherwise directed by that
23 Office for transmission to Austria; and,

24 7. may provide copies of the evidence collected to persons identified in the
25 Request as parties to whom such copies should be given (and to no other persons).

26 IT IS FURTHER ORDERED that any person from whom the commissioner seeks to
27 collect evidence may, for good cause shown, oppose the giving of evidence, or the
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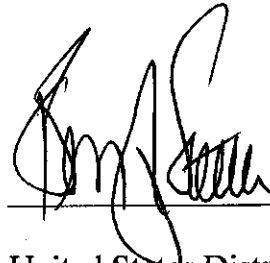
1 circumstances thereof, by motion timely filed with this Court, a copy of which shall be
2 provided contemporaneously to the commissioner.

3 IT IS FURTHER ORDERED that the application and this order shall be maintained
4 under seal unless and until this Court orders otherwise. Notwithstanding this order's filing
5 and maintenance under seal, the commissioner may disclose copies of this order as necessary
6 to accomplish the purposes of the Request.

7 IT IS FURTHER ORDERED that Microsoft Corporation shall not disclose to its
8 customer "Madleine Seiler", or to any person jointly holding an account with that customer,
9 any aspect of this matter, including the fact that it has received a subpoena or has given
10 testimony or evidence in response thereto.

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12 Dated this 7 day of January, 2013.

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United States District Judge

Presented by:


MARCI L. ELLSWORTH
Assistant United States Attorney